



MAY 04 2016

Mr. Robert G. Senneff
President
Graham Hospital School of Nursing
210 West Walnut
Canton, Illinois 61520-2497

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Dear Mr. Senneff:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Graham Hospital School of Nursing/GHSN (Graham Hospital) a total of \$20,000 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any or all of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs). As applicable here, under the Department's regulations, the Department may impose a fine of up to \$27,500 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on Graham Hospital's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), as reflected in 34 C.F.R. §§ 668.41 and 668.46,¹ and the Drug-Free Schools and Communities Act Amendments of 1989 (DFSCA) as reflected in 34 C.F.R. Part 86.

Under the Clery Act, institutions participating in the Title IV, HEA programs must prepare, publish and distribute an Annual Security Report (ASR) by October 1 of each year. 34 C.F.R. § 668.41(e). The Department's regulations require that, beginning October 1, 2010, an institution that maintains any on campus student housing facility, must prepare an Annual Fire Safety Report (AFSR). 34 C.F.R. §668.49(b).

The Department reviewed two separate audit reports of Graham Hospital prepared by McGladrey, LLP, in accordance with the Office of Management and Budget Circular A-133. The first audit report was recorded as Audit Control Number (ACN) 05-2012-33843 covering the period July 1, 2011 through June 30, 2012; and the second report was recorded as ACN 05-2013-40893 covering the period July 1, 2012 through June 30, 2013. The focus of the audit reviews was Graham Hospital's compliance with the statutes and Federal regulations governing the

¹ The Department significantly revised 34 C.F.R. §668.46 in final regulations published on October 20, 2014. However, the fines proposed in this letter are based on violations of the regulations existing during the period covered by the program review.

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institution's administration of the Title IV, HEA programs. The reviews also examined Graham Hospital's compliance with the Clery Act and the DFSCA for calendar years 2011 and 2012.

After reviewing Graham Hospital's audit reports, the Department issued its Final Audit Determination (FAD) letters to Graham Hospital on May 3, 2013 for ACN 05-2012-33843, and on August 22, 2014 for ACN 05-2013-408930. The two FADs are incorporated by reference into this fine action. (Enclosures 1 and 2).

The Department is taking this fine action based on the findings in the FAD issued on May 3, 2013 and the FAD issued on August 22, 2014, which concluded that Graham Hospital's 2011 AFSR omitted required information and that Graham Hospital failed to comply with the drug and alcohol abuse prevention regulations.

GRAHAM HOSPITAL'S 2011 AFSR OMITTED REQUIRED INFORMATION

As of October 1, 2010, the Clery Act and the Department's regulations require that all institutions that receive Title IV, HEA funds and maintain an on-campus student housing facility must, by October 1 of each year, prepare, publish and distribute to its current students and employees through appropriate publications and mailings, an AFSR that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.49(b). These institutions must disclose fire statistics for each on-campus student residential facility for the three most-recent calendar years. An institution's statistics must accurately and completely identify the number of on-campus fires and the cause of each fire, the number of persons who sustained fire-related injuries that resulted in treatment at a medical facility (including on-campus health centers), the number of fire-related deaths, and the dollar value of property damage caused by such fires. 34 C.F.R. § 668.49(c).

In addition, the AFSR must include several fire safety information disclosures covering topics such as the type(s) of fire safety systems that are used in each student housing facility, the number of fire drills that were conducted during the previous calendar year, any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use/presence of open flames in student housing facilities; 3) evacuation procedures to be followed in the case of a fire; 4) fire safety education and training programs; 5) the institutional official(s) and departments to whom students and employees should report the occurrence of fires so that those incidents can be included in the institution's annual fire statistics; and, 6) any plans for future improvements to the institution's fire safety program. 34 C.F.R. § 668.49(b).

The AFSR must be published and distributed through appropriate publications and mailings in the same manner as the ASR. The AFSR must be a comprehensive publication in the same manner as the ASR; however, if an institution chooses to combine the ASR and AFSR and publish them as a single document, then the title of both reports must conspicuously appear on the cover page. 34 C.F.R. § 668.41(e).

Graham Hospital has student housing facilities and is covered by the requirement for an AFSR. Graham Hospital acknowledges, however, that it did not publish and distribute a complete AFSR for calendar year 2011. Graham Hospital's 2011 AFSR did not include a list of the titles of each person or organization to which students and employees should report that a fire occurred. In its response to the audit, Graham Hospital acknowledged that its 2011 AFSR did not include a list of the titles of each person or organization to which students and employees should report that a fire occurred. Graham Hospital provided a corrective action plan designed to ensure that its future AFSRs are complete and accurate. However, the revision of procedures after the Department alerted the institution of its obligations does not excuse its earlier failure to comply with the law. Graham Hospital's students and employees should have received complete fire safety information so that they could make informed decisions about their personal safety, and where to report that a fire has occurred.²

GRAHAM HOSPITAL DID NOT COMPLY WITH THE DRUG AND ALCOHOL ABUSE PREVENTION REQUIREMENTS

The DFSCA and the Department's regulations require institutions of higher education to adopt and implement a drug prevention program for its students and employees that, at a minimum, includes the annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit (except continuing education units) standards of conduct that: clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities; describe the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol; describe the health risks associated with the use of illicit drugs and the abuse of alcohol; describe any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and include a clear statement that the institution will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions for violation of the standards of conduct. In addition, an institution must conduct a biennial review of its program to determine its effectiveness and implement changes to the program if they are needed and ensure that the disciplinary sanctions mentioned above are consistently enforced. 34 C.F.R. § 86.100.

Graham Hospital did not meet the requirements of the DFSCA. The August 22, 2014 FAD found that Graham Hospital violated provisions of the DFSCA and 34 C.F.R. Part 86. Specifically, Graham Hospital did not conduct a biennial review to evaluate the effectiveness of its drug and alcohol abuse prevention program (DAAPP) and to assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to

² The FAD identified as ACN 05-2012-33843 included additional findings regarding the institution's failure to include in its 2011 AFSR fire statistics for two years; and its failure to include required missing student notification procedures and policies in its 2011 ASR. The Department has decided not to impose a fine relating to these two findings.

drugs and alcohol. The FAD stated that Graham Hospital informed the auditor that it does assess its DAAPP periodically but those reviews are not documented.³

Graham Hospital did not comply with the DFSCA and the Department's regulations because it did not conduct the required biennial review of the DAAPP.

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R. § 668.92. Pursuant to the Secretary's decision In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for Graham Hospital is 2014-2015 award year. According to the Department records, Graham Hospital received approximately \$205,558 in Federal Pell Grant (Pell) funds, \$289,629 in Federal Direct Loan funds and \$14,509 in Campus-Based funds. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$1,540,305, for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,108,926, and for institutions participating in the Campus-Based programs, the median funding level is \$271,961. Accordingly, Graham Hospital is a small institution because its funding levels for Federal Pell Grants, Federal Direct Loans, and Campus-Based funds are below the median funding levels for those Title IV, HEA programs.

As detailed in this letter, the Clery Act and the DFSCA violations identified at Graham Hospital are very serious. As a result of these violations, students and employees were deprived of complete fire safety information, and drug and alcohol abuse prevention information necessary for their safety. Moreover, Graham Hospital failed to take the required steps to ensure that its DAAPP was up-to-date and reflected the needs of its students and employees. The Department considers an institution's compliance with the Clery Act requirements to be part of its administrative capability, and Graham Hospital's failure to comply with those requirements constitutes an inability to properly administer the Title IV programs.

³ If accurate, Graham's claim that it did assess the DAAPP but did not have any records to document that assessment would evidence a separate regulatory violation of the record retention requirement under 34 C.F.R. § 86.103. The Department's regulations require that each Institution of Higher Education (IHE) that provides the drug prevention program certification required by 34 C.F.R. §86.3(b) shall, upon request, make available to the Secretary and the public a copy of each item required by 34 C.F.R. §86.100(a) as well as the results of the biennial review required by 34 C.F.R. §86.100(b). An IHE is required to keep, among other things, the following records for three years after the fiscal year in which the record was created:

- 1) Any other records reasonably related to the IHE's compliance with the drug prevention program certification.
- (2) If any litigation, claim, negotiation, audit, review, or other action involving the records has been started before expiration of the three-year period, the IHE shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year period, whichever is later. 34 C.F.R. §86.103.

Graham Hospital appears to concede that it violated the record retention requirement.

After considering the gravity of the violations and size of the institution, I have assessed a fine of \$5,000 for Graham Hospital's failure to publish and distribute a complete AFSR for calendar year 2011. This is a serious violation because students and employees were denied critical information about how and where to report that a fire has occurred. The AFSR is likely to contain inaccurate and unreliable fire statistics when the distributed AFSR does not contain titles of each person or organization to which students should report that a fire has occurred.

I have assessed a fine of \$15,000 for Graham Hospital's failure to conduct a biennial review to evaluate the effectiveness of its DAAPP and to assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol. This is a serious violation because the failure to conduct a biennial review rendered Graham Hospital's DAAPP woefully unreliable and unhelpful to its students and employees.

The fine of \$20,000 will be imposed on **May 27, 2016**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. Graham Hospital may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

If Graham Hospital chooses to request a hearing or submit written material, you must write to me at:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Program Compliance
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019


Upon receipt of such a request, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of Graham Hospital's case to a hearing official who will conduct an independent hearing. Graham Hospital is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If Graham Hospital does not request a hearing but submits written material instead, I will consider that material and notify Graham Hospital of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT GRAHAM HOSPITAL SUBMITS MUST BE RECEIVED BY MAY 27, 2016; OTHERWISE, THE \$20,000 FINE WILL BE EFFECTIVE ON THAT DATE.

Mr. Robert G. Senneff
Graham Hospital School of Nursing
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If you have any questions or desire any additional explanation of Graham Hospital's rights with respect to this action, please contact Lawrence Mwethuku of my staff at 202/377-3684.

Sincerely,



Susan D. Crim, Director
Administrative Actions and Appeals Service Group
Federal Student Aid/Program Compliance
U.S. Department of Education

Enclosure

cc: Dr. Sharon Tanner, Chief Executive Officer, ACEN, via sjtanner@acenursing.org
Mr. Mark Ribelin, Federal and State Monitoring, IL State Board of Education, via
extassur@isbe.net